



Memorandum

City Attorney

CONFIDENTIAL
(Attorney/Client Privilege)

DATE: December 14, 2018

TO: Mayor and City Council

FROM: Judi Baumann, City Attorney (Ext. 8779)

SUBJECT: City Council Code of Conduct – Allegations of Violations

The City's outside investigator has completed the Code of Conduct allegations made by several women against Councilmember Granville that was investigated by the Phoenix Police Department. A copy of the confidential memorandum of January 19, 2018, is included for your review. Note that this matter was delegated to former City Auditor, Lori Cox, who declined to complete a review based upon concerns of a conflict of interest. For this reason, an outside investigator was retained by our Office to complete this investigation and prepare the report.

Attached for your review is the entire confidential report.

It is the investigator's opinion that a preponderance of the evidence would establish that these events occurred. As you recall, a preponderance of the evidence means that to prove that an event occurred, the weight of the evidence (more than 50%) must support that fact. See Revised Arizona Jury Instruction (Civil) SI 2 (5th ed.). This standard is utilized in all of the previous City Council Code of Conduct investigations undertaken by the City of Tempe.

Please let me know if you wish to discuss this matter at an upcoming Executive Session. Thank you.

REMINDER: PLEASE PUT ALL MEMORANDUMS FROM THE CITY ATTORNEY'S OFFICE WHICH ARE MARKED "CONFIDENTIAL" INTO A SEPARATE CONFIDENTIAL FILE. ANY PUBLIC RECORDS REQUESTS FOR INFORMATION FROM A CONFIDENTIAL FILE SHOULD BE REFERRED TO THE CITY ATTORNEY'S OFFICE.

Memorandum

CONFIDENTIAL

(Attorney/Client – Work Product Privilege)

DATE: December 6, 2018

TO: Judi Baumann, City Attorney

FROM: Sarah L. Barnes, Outside Counsel (Broening Oberg Woods & Wilson)

SUBJECT: Code of Conduct Violations – Kolby Granville – Former Students’ Allegations

This memo is intended to provide factual findings and recommendations with respect to possible Code of Conduct Violations by City of Tempe Council Member Kolby Granville, in connection with allegations made against him by former students at the school at which he taught (Tempe Preparatory Academy – “TPA”), which led to his firing as a teacher at TPA, and a criminal investigation handled by Detectives at the City of Phoenix Police. According to the information received, Mr. Granville was accused of sexual assault, assault and providing alcohol to minors.

Consistent with the Tempe City Council’s Code of Conduct, the initial inquiry of alleged violations of the Code of Conduct began with a referral to the City Attorney, who in turn hired me as outside counsel to investigate the allegations to determine whether the allegations, if true, would qualify as a violation(s). (*See* Resolution 2009.126).

I have determined that if true, the allegations would constitute violations of the Personnel Rules & Regulations, Rule 406.B. (9-12) (Revised May 2018), and the Ethics in our Workplace Handbook, as these documents are incorporated in the Code of Conduct, and therefore fall within the Code of Conduct. Further, in light of the Findings of Fact below, based on documentary evidence and interviews conducted, I have determined that there is a preponderance of the evidence that the allegations, at least in part, are more probably true than not, and that Mr. Granville has committed Code of Conduct violations, for which the current maximum sanction is formal censure.¹

I. FINDINGS OF FACT

As a part of counsel’s outside investigation of this matter, I reviewed police reports, emails and other personnel documentation provided by Mr. Granville’s former employer, TPA, and I also conducted interviews of City of Phoenix Detective Mose, Mr. Granville

¹ However, on November 6, 2018, Tempe voters approved Proposition 418, adding a new subsection 2.06(D) to the Tempe City Charter, Removal from office, to authorize the City Council to remove a councilmember, by supermajority of 5 of 7 votes, for unlawful conduct involving moral turpitude, fraud or corruption. That Charter Amendment was signed and approved by the Governor on December 6th.

(recorded, with his attorney present), and John Kelley, TPA's attorney. The following is a summary of what was reported to TPA and then to the City of Phoenix Detectives, in connection with former TPA students' allegations against Mr. Granville, as well as the lead Detective's perspective on the matter, Mr. Granville's response via interview, and some additional clarification/perspective from TPA's documentation.

A. Allegations of Three Former TPA Female Students

1. [REDACTED]

On January 18th, 2018, AZ Central published an article about Tempe City Councilman Kolby Granville being terminated from his teaching position at TPA. He was terminated for inappropriate conduct with former students by allegedly providing them alcohol when they were under 21 years of age and possibly making unwanted sexual advances towards two of them. Tempe Police saw the article and made an inquiry to the school to obtain additional information about the people involved, but then elected to recuse themselves due to potential conflict of interest. City of Phoenix was assigned the criminal, and it was handled by Sgt. Breitzman and Detective Mose.

Shortly thereafter, Det. Mose contacted TPA's attorney, John Kelley, to ask for the information that had been released to the media for their article. She received the same redacted information that TPA released to the media for their public information request. Based on this information, which included numerous emails with former female TPA students, Det. Mose put together a timeline and then reached out to the females to interview them.

On 01/26/18, Det. Mose spoke to "[REDACTED]" over the telephone, and the conversation was audio recorded. [REDACTED] graduated from TPA in May of 2015 and never had Granville as a teacher while she was at TPA. She knew who he was because TPA is a small school and everyone tends to know who everyone is. [REDACTED] first met with school officials at the end of November to discuss her issue with Kolby Granville. [REDACTED] stated they had a consensual relationship from April of 2016 to February of 2017, not just six months as Granville claimed in the news article. [REDACTED] had multiple conversations with Granville while she was a student and on one occasion he flirted with her when he commented how attractive her dress was at prom. At the time she did not think much of it. [REDACTED] turned 18 years old in August of 2015, after graduating from TPA. She did not have any contact with Granville until September of 2015 while attending a neighborhood meeting, after which, he asked her to be Facebook friends.

After [REDACTED] and Granville became Facebook friends, he asked to meet her for coffee or lunch. Though [REDACTED] and her mother both thought it was weird, she agreed to meet him for lunch, believing there was nothing romantic about it. [REDACTED] thought they were just meeting so he could get to know her and ask her questions about the City of Tempe.

They had contact off and on via text about City related things until she asked to meet with him in February of 2016 to interview him for one of her college classes. During the interview it remained professional, until he asked [REDACTED] if she wanted to see a movie with him. She declined at first, but then after seeing him again in April, Granville again asked her out and they started dating a week later. Once they started dating, Granville insisted she not tell her parents or her friends that they were dating. [REDACTED] stated he actually told her he could get fired if anyone found out they were dating. Granville also did not take any pictures with [REDACTED] aside from the one picture she took outside the movie in April when they first started dating.

While [REDACTED] acknowledged that nothing physical happened until after she was 18 years old, she described herself as being very immature and sheltered, which Granville knew and recognized. The reason she decided to come forward to the school is because someone she worked with told her that a student was alone in the room with Granville, and he touched her inappropriately. [REDACTED] added that while she was dating Granville, he had told her a story about the school not letting him be alone with female students because he had touched a student inappropriately. [REDACTED] also disclosed a conversation she had with Granville about how old she looked, and he told her that she looked "16." She knew that Granville found younger women attractive.

[REDACTED] did not feel comfortable reporting her relationship at first, however, because one of her friends has a father that is on the board or teaches at TPA. She also saw in the article that Granville accused her of making this claim because she was jealous of his new girlfriend, but [REDACTED] again stated she only came forward because of what her coworker told her about a former student at TPA, and she said she ended the relationship. [REDACTED] stated she asked him if he could ever love her, and Granville told her "no," so she decided to end the relationship. Finally, [REDACTED] stated Granville did buy alcohol for her when they were dating, but it was usually just them, other than once in Vegas.

2. [REDACTED]

On 02/05/18, Det. Mose interviewed [REDACTED] in-person, which was audio and video recorded in its entirety. While [REDACTED] was at TPA, Granville was never her teacher, and she did not really have any interaction with him at school. She graduated in May of 2013, and was still 17 years old. She was going to take a month-long trip to Germany, and a teacher, [REDACTED], recommended that [REDACTED] speak to Granville because he had traveled pretty extensively ([REDACTED] was the [REDACTED] at TPA in 2013). So, [REDACTED] contacted Granville by telephone, and they met at Cartel Coffee on September 2nd, 2013, and walked to Tempe farmer's market to get something to eat. They planned to meet a week later to go road biking, but they instead met for breakfast. During breakfast Granville started making comments about her appearance, telling her that she was an attractive, smart woman, which she thought was weird coming from an older man. [REDACTED] told Mrs. [REDACTED] about the comments Granville made, and she told [REDACTED] that he likes

to date younger women and that it sounded like him. They met several more times for meals, and after the fourth time, he suggested they go back to his house for ice cream and to get the travel books he was going to loan her.

At his house, Granville took [REDACTED] to his roof, and while they were on the roof, he asked [REDACTED] to lay on his chest; she did not answer, so Granville pulled her on his chest. While they were talking, Granville started talking about his sexual experiences, and he told [REDACTED] that she would not like the things he was into, which made her very "uncomfortable." He also kept pulling her hand to rest on his chest, and she kept pulling it away. [REDACTED] said Granville was also asking her questions about whether she liked older men and would she date him, which also added to her discomfort. She told him then that they should just be friends, and she did not date anyone unless she was friends first. [REDACTED] finally said she had to leave because her parents were waiting for her, so they stood up. Granville then made a comment about [REDACTED] being 18, and she responded she was still only 17 years old. He then said something to the effect of "well I guess that shoots down my idea of a goodnight kiss." [REDACTED] took the travel books and left Granville's house.

[REDACTED] did not see Granville again prior to leaving for her trip, but they did maintain contact via Facebook messages (these were provided by [REDACTED]). [REDACTED] stated she became uncomfortable with some of his messages and made up a story that she was seeing someone, so he would stop sending her so many messages. [REDACTED] returned from her trip at the end of October, she thinks she just dropped by his house in November to drop off the travel books. Granville answered the door when she knocked and asked her to come in and put the books on the coffee table. [REDACTED] walked in, put the books down, turned around and Granville was closing the door. He was standing between her and the door. Granville asked about her trip, walked towards [REDACTED] and kissed her. She pushed him away because she did not want to be kissed by him. Granville stayed in front of the door and said "I don't think you're ready to leave yet," which frightened [REDACTED]. She was not sure how to get out of the situation, so she told him that she should go because there were friends waiting for her. Granville grabbed her by the shoulders, in a way [REDACTED] felt he was trying to reach for her chest, and he kissed her again. [REDACTED] pulled away again, and Granville stated something to the effect of, maybe you should leave before we do something we'll both regret. [REDACTED] felt threatened by that remark, walked out of his house and said "goodbye."

[REDACTED] told a few friends what happened, as well as Mrs. [REDACTED]. Mrs. [REDACTED] just laughed it off and said that sounds like Granville. [REDACTED] decided to report this to the school because she found out that Granville was fired from the school, so she wanted to tell them her story. [REDACTED] learned about Granville being fired from a family friend that [REDACTED], and who also happened to be a Tempe City Council member, Lauren Kuby. [REDACTED] has request to not be assigned to work at events [REDACTED] when Granville might be present. [REDACTED] said she feels a lot of guilt for not saying anything at the time, especially after she read the article. The comments Granville made in the AZ Central article also made her angry, so

she felt it was her responsibility to tell the school it was not just those two girls. ██████ thought about contacting police, but she did not want her name associated with it and this has become a lot bigger than she anticipated. It was explained to ██████ the events she described constituted an assault; specifically the kiss. ██████ was still visibly upset about the incident that happened with Granville in 2013 and had yet to speak to a counselor about the traumatic event. However, several days later, Det. Mose contacted ██████, and left a message that the other girls did not want to prosecute (██████ had asked if the other girls would prosecute). ██████ never called back to prosecute.

3. ██████

On 2/8/18, ██████ went in for her interview with Det. Mose, which was audio and video recorded. ██████ graduated in 2013, and was friends with ██████ towards the end of 2013 and did ask her on a date at the end of the school year. ██████ said they went on a date, but it was more or less them hanging out and nothing else happened. She stayed in touch off and on with ██████ over the next couple of years, but ██████ parents were very strict and blocked ██████ from her phone. When they did talk, it was via email from an account ██████ created without her parent's knowledge. ██████ does communicate with ██████ now on a regular basis, but never knew about ██████ relationship with Granville until well after ██████ and Granville stopped seeing each other. They did not stop speaking because ██████ started seeing Granville, as Granville stated in an email to John Kelley.

Det. Mose asked ██████ what her relationship with Granville was while she was at TPA as a student. According to her, he was never her teacher, but TPA is a small school and everyone knows everyone. She would talk with him before school started in the mornings when he had courtyard duty. ██████ described Granville as being progressive and accepting of her ██████, which was unusual for the school environment. Granville then contacted her in the spring or summer of 2014 and said he had wanted to wait a year until after she graduated before contacting her, to create some distance. Granville asked ██████ to join a TPA summer run club, which she declined, and he later invited her to a movie festival, which she also declined. Her parents were aware of her contact, but did not think much of it because she tended to be friends with adults because her older brother is 15 years her senior; based on her ██████, they were also not worried about there being a ██████ interest there.

██████ also talked about Granville providing alcohol for her and other underage friends in the summer of 2014. She had a friend who attended Arizona Technical Institute and lived on campus in the dorms. Granville would come to the dorms with alcohol, hang out with college kids and consume alcohol. That same summer is when Granville also asked ██████ to go to a jazz concert, to which she agreed. He asked if she wanted to leave the concert and go to a friend's party, and ██████ agreed. While they were at the party, they both consumed alcohol and that is when Granville kissed her. ██████ pulled away, he apologized; she just chalked it up to a "drunken mistake" and did not think anything of

it. [REDACTED], so she did not tell [REDACTED] about what happened, as she did not want him to get upset and do something that would jeopardize his career. After the party, [REDACTED] and Granville continued to talk. She would go over to his house, and they would have drinks and watch movies.

Granville also went to Tucson and stayed with [REDACTED] in her apartment for a night because he was going to go cycling on Mt. Lemon. During that visit nothing happened, however, she believes he made a pass at one of her friends there. After a break up that [REDACTED] went through in the fall of 2015, she and Granville started talking on a more regular basis. During one of their conversations, Granville asked if she wanted to go with him to San Francisco for New Year's Eve. He said it would be an inexpensive trip for her because he was driving, they had a place to stay, so she would just have to pay for food. [REDACTED] agreed to go because she loved to travel and thought this was a good opportunity for an inexpensive trip.

Prior to going on the trip, [REDACTED] went to Granville's house in December to watch movies. They had gin and cranberry juice to drink while they watched movies. She realized she was too intoxicated to drive, so she asked to sleep on the couch. Granville told her his bed would be more comfortable, so she agreed to sleep there. [REDACTED] got in the bed, but does not remember if she changed clothes or was wearing jeans. She said Granville had a night stand with various women's clothing items and she thinks she may have put on shorts or pajama pants before getting in bed. Granville got in bed with [REDACTED], moved behind her in a "spooning position" with his arm around her. She felt him put his hand down her pants and digitally penetrated her vagina with his fingers. [REDACTED] told Granville to stop, but that is when he became more persistent and said something to effect of "having sex with a guy is no different than having sex with a woman with a strap-on." The words were and still are hurtful for [REDACTED] because Granville was aware of her sexual orientation and was still trying to have sex with her. She was visibly upset and tearing up as she described Granville's words and actions. [REDACTED] again told Granville "no," but he continued to touch her on her vagina, until [REDACTED] pulled his hand from her pants. She got out of bed, grabbed her clothing, went to her car and cried for a little while. She then drove home and cried some more. She did not say anything to her parents or anyone at the time. [REDACTED] did eventually tell her mother a little about what happened, a couple of years later, and her mother advised her not to tell [REDACTED] because [REDACTED].

[REDACTED] sent Granville an email after the incident at his house actually apologizing to him because she thought somehow she had done something wrong or overreacted. She said in the email she kept blaming herself and said her psychiatrist had changed her medication, so she blamed that as well. He did not reply by email, but she thinks he replied via text or in person. [REDACTED] does not have these text messages because it was an old phone that broke and it was a different phone number at the time. After she spoke with Granville, [REDACTED] decided to go to San Francisco because she thought the boundaries were established, and he again told her that she would not have this opportunity to go to San

Francisco for such a low cost. While they were in San Francisco, nothing sexual happened between them; they walked around, ate and drank alcohol while they were there. She did sleep in the same bed as Granville, but stayed to the very far side of the bed because there were only two space heaters in the apartment. She described Granville as being slightly quiet and reserved on the trip and at a later time he told [REDACTED] he was pre-occupied with family matters.

[REDACTED] also discussed some Facebook messages between her and Granville discussing their dating lives and "[REDACTED]," some of which Det. Mose had already received from John Kelley. [REDACTED] confirmed that some of the messages were referring to [REDACTED], and she told Granville to stay away from her because she was naive and innocent. They also discussed the numerous emails [REDACTED] had with Granville; most of them were about him trying to find odd jobs for her to make money. [REDACTED] was paid to work on Granville's campaign, his sister's campaign, and she graded papers for him when he was teaching at TPA. [REDACTED] also added that when Granville stated in the article that he was far removed from whomever worked on his campaign and that he was not aware [REDACTED] worked on his campaign, it was an obvious lie because they were friends, went to San Francisco together and exchanged emails about it.

Also according to [REDACTED], while she was on the roof with Granville at some point during their friendship, he told her a story about [REDACTED]. According to [REDACTED], Granville told her that he felt like he was set up on "kind of a date" with [REDACTED] by another teacher, Mrs. [REDACTED]. [REDACTED] was also told by Granville that [REDACTED] was interested in him, and she put her head-on his chest, but he was not really interested, especially once he learned her age. According to [REDACTED], he also said he did not find [REDACTED] attractive and he supposedly told [REDACTED] about this too.

[REDACTED] said Granville liked to go on the roof to hang out. The story with [REDACTED] came up because [REDACTED] was telling Granville how she did not get along with [REDACTED] because she was a ring leader of kids that bullied [REDACTED] while she was in school. [REDACTED] is not sure what to think about [REDACTED] claim, but [REDACTED] [REDACTED], so Granville's version of the story that [REDACTED] was interested in him does not really make sense to her. She also added that [REDACTED] [REDACTED] until her relationship with Granville, then she [REDACTED].

[REDACTED] stopped communication with Granville after San Francisco and after his campaign ended. He would send her the generic emails he would send other people about Tempe and maybe some Facebook messages. [REDACTED] stated multiple times during the interview that she came forward so this would not happen to anyone else and to support [REDACTED] story. She has not had any contact with Granville since the article came out, but she did have Facebook messages from the time they were friends. [REDACTED] stated she would forward the Facebook messages and all the emails involving Granville to me. I did refer [REDACTED] information to the victim advocates to contact her after i explained to [REDACTED]

what services they could offer. [REDACTED] did send some of the emails to me; however at a later time she decided not to move forward with prosecution and did not send me the Facebook conversation with Granville or any more emails. The reasons given by [REDACTED] not to prosecute are Granville's position in government, [REDACTED] is still a [REDACTED], the business of her life with school, and she wants to put the event behind her.

On 03/05/18, Det. Mose contacted Julia Cassels, Granville's attorney, to find out if he was willing to speak with her in reference to the allegations against him. She advised Det. Mose that she would speak to her client and get back to her; Ms. Cassels never got back to her. Granville did send an email to John Kelley, TPA's attorney, after he was terminated to address some of the allegations. He also spoke to the journalist who wrote the original article for AZ Central. In the email and article, Granville denies ever providing alcohol for anyone underage or even knowing [REDACTED] prior to her graduating from TPA. He also stated that he only dated [REDACTED] for six months and that did not start until the start of her sophomore year at ASU (September 2016). He acknowledged they went on a couple of dates in April of 2016, which is when [REDACTED] stated they started dating. Granville stated he was friends with [REDACTED] and her family, but denies any memory of drinking with her or touching her. He even stated if she worked on his campaign, she was so far removed he did not know. [REDACTED] provided emails from Granville to her specifically about working on his campaign. Granville stated [REDACTED] initiated the Facebook messages to him, but looking over the messages, Det. Mose said it appeared to be a very mutual conversation. Granville also implied [REDACTED] and [REDACTED] had an on-going [REDACTED] relationship that ended when he started dating [REDACTED]. Granville did not make any comments to the media pertaining to [REDACTED] allegations.

4. Additional Information On Another Potential Victim

Additionally, Det. Mose was contacted by Chad Sampson, a board member at TPA, who advised he knew about two different people/situations for which he wanted to provide information. While at a school meeting, Tony, the father of an 8th grade student, told Mr. Sampson that his daughter received a friend request on Facebook from Granville on 1/30/18. Mr. Sampson provided Tony's number in order for Det. Mose to contact him for details. Mr. Sampson also told Det. Mose about receiving information on allegations by [REDACTED].

On 02/05/18, Det. Mose contacted Tony by telephone to get additional information about the friend request from Granville to his daughter (recorded). Tony stated his daughter is in 8th grade at TPA and has never had Granville as a teacher. On 2/2/18, she told her dad that she received a request from Granville to follow her on Instagram on 1/31/18. She thought it was weird he wanted to follow her, but she did not accept it and never had any personal contact with Granville. Det. Mose asked Tony if he wanted to bring his daughter in for an interview by a dedicated forensic interviewer to find out if there was

anything she had not disclosed to him, but he was positive there was no contact outside of normal school interaction between Granville and his daughter, and he declined.

B. Detective Mose' Impressions

On October 25, 2018, I interviewed Det. Mose in person. Det. Mose works in the Adult Sex Crimes Unit, and has been a detective for many years. It is her opinion that all three women were telling the truth, and the emails and other information she saw generally corroborated a lot of what they told her and was also consistent with their prior statements/allegations. However, she also noted that all three seemed very insecure and vulnerable, and that they were the perfect type of victims for an older man who had been in a position of authority to target. She believes that Granville chose them specifically, because they would be easy to manipulate, due to their vulnerability, sexual identity struggles and overall insecurities.

However, because the women refused to prosecute, and there were no definitive statements by Granville (other than a couple of general denials via the article – he refused to respond to interview requests), she did not have enough to recommend prosecution. She did however indicate the statute of limitations on some of the alleged crimes had not yet run.

C. Summary of Mr. Granville's Responses Via Recorded Interview

On November 7, 2018, I conducted an in-person interview with Kolby Granville, at his criminal defense attorney's (Julia Cassels) office. They allowed me to record the interview on my phone, which we are in the process of trying to transfer to get transcribed. Mr. Granville admitted to the relationship with "██████," as well as the friendships (as he called them) with ██████ and ██████. He said he does not remember ever giving alcohol to any of them, but witnessed ██████ drunk and ██████ drinking – he claims they must have gotten their own drinks, and that he did not drink with them. He said it would have been a stupid thing to do, since he is politics (although he claims that ██████ Dad let her drink). He also admitted to being with the women on all of the occasions that they discussed in the allegations, including at their schools while there was drinking, although he said nothing inappropriate happened.

However, when asked about ██████ allegations of being sexually assaulted in his bed – rather than unequivocally deny it occurred – he said "I'm sure that did not happen." He claims he must not have done it, because in the email ██████ sent him the next day, she did not mention him assaulting her, and that she is "super ██████." He also does not remember them sharing a bed at his house. He admits they shared a bed a couple of times, but the night ██████ is referencing, he claims that ██████ became overly emotional, and that she left the night from his house because she had been crying throughout the night for no apparent reason; however he then said that he woke up several times in the night and

early in the morning, and she was still crying (suggesting he was right next to her). He also says they were friends for a long time after that, and he now remembers that [REDACTED] worked on his campaign. He then initially denied knowing [REDACTED] friend at UofA, but then switched gears and remembered her. He also initially denied hitting on the friend, then changed his story to say he does not remember for sure if he did or not, but that he never ended up going out with her.

Granville also admits that he went out a few times with [REDACTED] (but does not remember any specifics), and that after a few dates they went to the roof of his house; he claims he did not know how old she was. He admits [REDACTED] had her head on his chest on his roof, but that as soon as she said she was 17, he claims he told her to immediately leave. However, again, when asked about kissing her when she came back to his house with the travel books (which he says he does not remember giving her), he says he does not remember her coming back to return the books (but it could have happened), nor kissing her and that he is “sure [he] would not have done that,” and that it would be “out of character” and does not “logically make sense,” but he has no recollection either way. He vacillated between having a very clear memory of some things, but then not a good memory when it came to some of the specific allegations of criminal conduct, like the unwanted kiss – he claims it was six years ago, so he could not remember, yet he remembered the rooftop. He also then claimed that he complained to Mrs. [REDACTED] that she should not have set them up, but says Mrs. [REDACTED] claimed it was not a big deal. At some time prior however, Granville admits that [REDACTED] [REDACTED], but she said also said she wanted to date Granville, and he was interested, until he learned she was 17. Although when asked about having previously claimed he was not attracted to [REDACTED], he again did not remember whether he said that or not.

Granville also acknowledged that the three females at issue were very vulnerable and insecure women, which he knew at the time he was involved with them. He actually said that is the reason he influenced [REDACTED] to break up with him – because she was too needy. Granville also admitted he has tended to date much younger women, but that he is now with a women in her 30’s. Interestingly, Granville also volunteered that he had been devastated by a break-up with a much younger women (in her late teens/early 20’s), and that this occurred right before these situations with these three women started happening. He believes however that [REDACTED] reported him to TPA because she was jealous of his new girlfriend. He did not provide any explanation for why [REDACTED] or [REDACTED] would have made the allegations they made.

When asked about the Code of Conduct, he said he was aware of the rules by which council members were to abide. He also admitted that there were reasons to be concerned about him having dated and/or interacted as he did with these young women, who had just recently been students where he was teaching. Although he claims there were no allegations of grooming (even though he admitted they were vulnerable and it made for a delicate situation), and that really the problem was because he was an old guy dating young

women, which is stigmatized “like communism.” He also says he made some “bad life choices,” and he should not have dated [REDACTED]. Mr. Granville also confirmed there is a State Bar investigation into his conduct, but that as far as he understands, that has not yet been resolved. He is also in the midst of a dispute with the Board of Education regarding his teaching certificate.

Overall, Mr. Granville came across as somewhat evasive and deceptive at numerous times, while at other times trying to be very cooperative and open about his actions, when he was characterizing them as appropriate and being a self-proclaimed good guy. He said he preferred that we record the interview, and his lawyer only objected one time on relevance to a question, but Mr. Granville readily answered (about why he left home as a teenager to move in with his sister in Tempe, which was because his mom was unstable). He also said he was fine with having been investigated by the Police, but that he did not respond to their requests to be interviewed. His final statement was that he wants to still protect the women’s identities, even though he did not get the “best end of this deal.”²

D. TPA Emails & Granville Student Reviews

The emails provide by TPA are consistent (although do not include much detail) with what has been reported about the women’s allegations. And, TPA did see some of the Facebook messages, emails and texts between Granville and the women. Further, TPA believed there were inappropriate actions by Granville, because they fired him on the same day they brought him in to interview him about the allegations they had received. They fired him on the spot, even though it was the end of the term, and he had not yet even graded papers/tests that had just been submitted by his students.

TPA also provided student reviews (and peer reviews) from Granville’s personnel file. Many of the students made comments about how Granville behaved inappropriately in the classroom, making inappropriate remarks to and about students (especially female students), and that he was very flirtatious with and favored a couple of attractive female students. Students also commented on Granville’s interactions with students on social media, and their belief those interactions were inappropriate. Indeed, even after being fired and being accused of this conduct, Granville sent a friend request to an 8th grade former student of his. Granville did not deny this, but again, did not have a clear memory of it (although he claims sometimes people do his social media for him, but he could not provide a clear explanation of who or why).

II. APPLICABLE CODE OF CONDUCT SECTIONS & PREPONDERANCE OF THE EVIDENCE STANDARD

Personnel Rule 406.B (Revised May 2018).

² We have a CD of the recorded interview, but we have not yet paid to have it fully transcribed.

9. *[The employee has] been abusive in attitude, language, behavior, or conduct toward another employee or the public.*
10. *[The employee has] engaged in behavior that has resulted in physical harm, or the threat thereof, to another employee or the public.*
11. *[The employee has] engaged in behavior that does not meet a reasonable standard of workplace civility and respect in his or her interactions with other employees or the Public.*
12. *[The employee has] engaged in conduct, on or off duty that is of such a nature that it causes discredit to the City.*

Ethics in our Workplace Handbook

Essential decency in our dealings with peers, bosses, and subordinates and all those outside the City with whom we come in contact. Earning the respect and regard of others for what we do and how we do it. Thinking through the implications of our actions, and our lack of action.

It's a matter of respect.

The City isn't a building, a piece of equipment, a form to fill out, or a budget. It's people. A community of people. A team. A family.

We see each other every day, work together closely, share common goals and depend upon each other. We have bad days and good days. We squabble and squirm, fuss and fight, and agree to disagree. We also help each other out, trade confidences, pour on the second effort, and laugh together over coffee. We rise to the occasion, in small and big ways.

The only way the relationship works is to treat one another with fairness, dignity, and respect. We insist!

Our City is not only obligated, but committed, to provide you with a work environment that is safe, fulfilling, and dignified. Intimidation, coercion, and harassment of any kind have no place here.

The foregoing rules and guidelines are incorporated into the City Council's Code of Conduct via Resolution 2009.126. Resolution 2009.126. provides that formal censure is the maximum sanction for a Code of Conduct Violation. However, as noted in footnote 2, *supra*, the voters recently approved the addition of a new subsection to the Tempe City

Charter, which was recently approved by the Governor, and authorizes the City Council to remove a councilmember, by supermajority of 5 of 7 votes, for unlawful conduct involving moral turpitude, fraud or corruption.

Preponderance of the Evidence

The City Attorney has indicated that a preponderance of the evidence standard is what they apply to determine Code of Conduct violations. There are also Arizona cases that have held that the preponderance standard is appropriate in administrative proceedings. In the *City of Tucson v. Mills*, the Court of Appeals held that “a majority of the [City of Tucson] Civil Service Commission members must be persuaded by the preponderance of the evidence to concur with the opinion of the discharging officer.” 114 Ariz. 107 (App. 1976). Similarly, the Court of Appeals also held that “absent legislative adoption of a different standard, applicant’s fraud in attempting to secure license to practice nursing may be established by same preponderance of evidence standard generally applicable to contested cases under the APA.” *Culpepper v. State*, 187 Ariz. 431 (App. 1996).

The RAJI (Civil) 3d Standard 9 defines the “preponderance” standard as: “On any claim, the party who has the burden of proof must persuade you, by the evidence, that the claim is more probably true than not true. This means that the evidence that favors that party outweighs the opposing evidence. In determining whether a party has met this burden, consider all the evidence that bears on that claim, regardless of which party produced it.”

III. RECOMMENDATIONS

Applying a preponderance of the evidence standard, as instructed by the City Attorney and as supported by Arizona case law in administrative proceedings, the evidence discovered in my investigation, as set forth in detail, *supra*, in the Findings of Fact section, establishes that Mr. Granville has violated the City’s Code of Conduct. The evidence is such that it is more probably true than not, that Mr. Granville’s interactions with [REDACTED], [REDACTED] and [REDACTED] constitute abusive attitude, language, behavior and/or conduct toward the public, as well as behavior that resulted in physical harm, or the threat thereof, to the public. This behavior also does not meet a reasonable standard of respect in his interactions with the public, namely three young women he knew to be vulnerable and had very recently been students at the school at which he was in a position of authority and respect as a teacher. This included one woman who had only been 17 at the time of their first interactions. Mr. Granville’s conduct was of such a nature that it caused discredit to the City. Likewise, these interactions also appear to have violated the decency, respect and dignity guidelines in the Ethics in the Workplace manual.

All three women told consistent stories to Det. Mose, and those stories were the same as reported to TPA and were backed up in part by written communications with Mr. Granville. Mr. Granville did not definitively deny several of the allegations, and his

answers were inconsistent with some of the written communications and contradicted by all three women. He also admitted to several of the interactions, although claiming to not remember some of the actual criminal conduct alleged during those interactions, and he also admitted he knew these young women to be very vulnerable, and that he made some bad choices where they were concerned (although he denies knowing [REDACTED] was 17 when they first went out). He also agreed that there was reason to be concerned, considering their ages, status as former students (and vulnerable), and his position as a teacher at the high school from which they had all recently graduated. There were numerous things that he could not unequivocally deny, but could only say he does not remember it happening or that he is sure he would not have done that, as it would have been out of character. And his other students confirm via written reviews that he had a reputation for behaving inappropriately with/towards female students in his classes as well. Further, TPA terminated him from his teaching position immediately, and he is also being investigated by the State Bar, and it appears he could also lose his teaching credentials. Much of the story about Mr. Granville's conduct with these women and his firing were also reported in the newspaper and on the internet.

In sum, it appears that the allegations constitute a violation of Rule 406.B. of the Personnel Rules (9-12), as well as the cited portions of the Ethics in our Workplace Handbook. Consistent with Resolution No. 2009.126., formal censure is currently the maximum sanction for Mr. Granville's violations of the Code of Conduct. The maximum sanction could be changed to removal from office in the near future.